

### REMARKS

This amendment is in response to the Office Action mailed June 22, 2001. Claims 1 and 12-39 are in the case.

#### *Rejections under 35 U.S.C. §112*

Claim 1 has been amended to clarify that the level of principal solvent should be so as to provide a clear or translucent composition when used in combination with the recited level of electrolyte. Support for this amendment is found in the specification on page 19, lines 15 *et seq.*

Claims 1 and 26 have been amended to insert a comma after the term "amine-oxide" and prior to the term "fatty alcohol". This amendment is made to clarify that the optional phase stabilizer can comprise amongst other materials, nonionic alkoxylated surfactants with or without amine or amine oxide functionalities. A similar amendment has been made to the specification.

Claim 39 has been amended to clarify that the optional phase stabilizer is derived from a fatty alcohol of a particular chain length and having a number of ethylene oxide groups in its structure. Support for this amendment is found in the specification on page 28 lines 17 through 26.

It is noted in the Action that the terminology "substantially unsaturated" is not defined in the application when used in association with the softener actives recited in claims 16 and 17. Applicants would point out that these softening materials are well known in the art and are described in the specification on pages 15 through 19. In particular, examples of these softening materials are provided in the specification on page 18. In the case of each example it is described that the fatty acids used to form the softening active reaction products are oleic acids, which are mono-unsaturated fatty acids. Based on the description and examples given, one skilled in the art would recognize that "substantially unsaturated" fatty acids refers to fatty acids that on average have at least one double bond.

It is respectfully requested that the rejection of Claims 1, 12-28 and 35-39 under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

#### *Rejections under 35 U.S.C. §103(a)*

Claims 1, 12-15 and 17-39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over WO 97/03169. Specifically, it is alleged that the reference discloses that the compositions taught therein may further comprise electrolytes such as calcium and magnesium salts. The reference discloses that the compositions may optionally contain electrolyte; but describes that the electrolyte level will preferably be less than about 0.5% and

more preferably less than 0.25% to provide additional stability. See page 93, beginning line 34 and bridging to page 94. In addition, a review of WO 97/03169 finds that the highest level of electrolyte that is used any example is 0.25% (CaCl<sub>2</sub>), which appears in Example III on page 112.

There is no teaching or suggestion in the reference that high concentrations of electrolyte should be used. More particularly, there is no teaching or suggestion that the use of electrolyte in such concentrations will enable a formulator to use solvents that would not otherwise form a clear or translucent composition or in the alternative to use lesser amounts of principal solvent without an accompanying increase in viscosity. The claims of the present application recite that the electrolyte should be present in the compositions at a level between about 0.5% and about 10%. There is no teaching or suggestion in WO 97/03169 that such a level of electrolyte will provide a clear or translucent fabric softening composition wherein the principal solvent can be selected from materials having such a broad range of Clog P values. A person of ordinary skill in the art would not have expected to have access to this greater variety of solvent materials merely by increasing the level of electrolyte. Therefore, the claimed invention is not believed to be obvious in light of WO 97/03169, and it is respectfully requested that the rejection of claims 1, 12-15 and 17-39 under 35 U.S.C. §103(a) be withdrawn.

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In light of the above amendments and remarks, Applicants respectfully request reconsideration of the application. All claims are believed to be in condition for allowance.

Respectfully submitted,

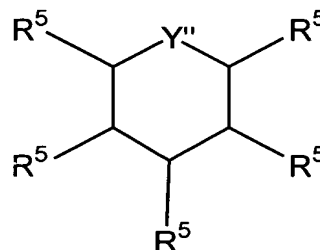
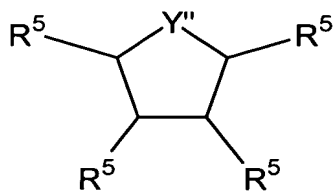


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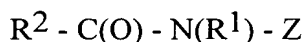
## VERSION SHOWING CHANGES MADE

1. (Amended) Clear, or translucent liquid fabric softener composition comprising:
  - A. from about 2% to about 80% by weight of the composition of fabric softener;
  - B. at least an effective level of principal solvent having a ClogP of from about -2.0 to about 2.6 to provide a clear or translucent composition;
  - C. from about 0.5 % to about 10% by weight of the composition of electrolyte;
  - D. optionally, from 0% to about 15% by weight of the composition of phase stabilizer selected from the group consisting of:
    - a. nonionic surfactants derived from saturated and/or unsaturated primary, secondary, and/or branched, amine, amide, amine-oxide, fatty alcohol, fatty acid, alkyl phenol, and/or alkyl aryl carboxylic acid compounds having from about 6 to about 22 carbon atoms in a hydrophobic chain, wherein at least one active hydrogen of said compounds is ethoxylated with  $\leq 50$  ethylene oxide moieties to provide an HLB of from about 8 to about 20;
    - b. nonionic surfactants with bulky head groups selected from:
      - a. surfactants having the formulas:



wherein Y'' = N or O; and each R<sup>5</sup> is selected independently from the following: -H, -OH, -(CH<sub>2</sub>)<sub>x</sub>CH<sub>3</sub>, -O(OR<sup>2</sup>)<sub>z</sub>-H, -OR<sup>1</sup>, -OC(O)R<sup>1</sup>, and -CH(CH<sub>2</sub>-(OR<sup>2</sup>)<sub>z'</sub>-H)-CH<sub>2</sub>-(OR<sup>2</sup>)<sub>z''</sub>-C(O)R<sup>1</sup>, wherein R<sup>1</sup> is selected from the group consisting of saturated or unsaturated, primary, secondary or branched chain alkyl or alkyl-aryl hydrocarbons; said hydrocarbon chain having a length of from about 6 to about 22, wherein each R<sup>2</sup> is selected from the following groups or combinations of the following groups: -(CH<sub>2</sub>)<sub>n</sub>- and/or -[CH(CH<sub>3</sub>)CH<sub>2</sub>]- wherein n is from 1 to 4; and wherein x is from 0 to about 3, and z, z', and z'' are from about 5 to about 20;

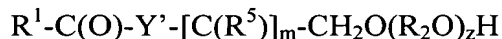
- b. polyhydroxy fatty acid amide surfactants of the formula:



wherein: each R<sup>1</sup> is H, C<sub>1</sub>-C<sub>4</sub> hydrocarbyl, C<sub>1</sub>-C<sub>4</sub> alkoxyalkyl, or hydroxyalkyl; R<sup>2</sup> is a C<sub>5</sub>-C<sub>21</sub> hydrocarbyl moiety; and each Z is a polyhydroxyhydrocarbyl

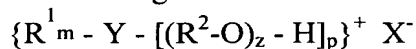
moiety having a linear hydrocarbyl chain with at least 3 hydroxyls directly connected to the chain, or an ethoxylated derivative thereof;

- c. surfactants having the formula



wherein  $R^1$  is selected from the group consisting of saturated or unsaturated, primary, secondary or branched chain alkyl or alkyl-aryl hydrocarbons; said hydrocarbon chain having a length of from about 6 to about 22;  $Y'$  is selected from the following groups:  $-O-$ ;  $-N(A)-$ ; and mixtures thereof; and  $A$  is selected from the following groups:  $H$ ;  $R^1$ ;  $-(R^2-O)_z-H$ ;  $-(CH_2)_xCH_3$ ; phenyl, or substituted aryl, wherein  $x$  is from 0 to about 3 and total  $z$  is from about 5 to about 30; each  $R^2$  is selected from the following groups or combinations of the following groups:  $-(CH_2)_n-$  wherein  $n$  is from about 1 to about 4 and/or  $-[CH(CH_3)CH_2]-$ ; each  $R^5$  is selected from the following groups:  $-OH$ ; and  $-O(R^2O)_z-H$ ; and  $m$  is from about 2 to about 4; and

- d. mixtures thereof;
- c. surfactant complexes formed by one surfactant ion being neutralized with surfactant ion of opposite charge or an electrolyte ion that is suitable for reducing dilution viscosity;
- d. block copolymer surfactants comprising polyethylene oxide moieties and propylene oxide moieties;
- e. cationic surfactants having the formula:



wherein  $R^1$  is selected from the group consisting of saturated or unsaturated, primary, secondary or branched chain alkyl or alkyl-aryl hydrocarbons; said hydrocarbon chain having from about 6 to about 22 carbon atoms; each  $R^2$  is selected from the following groups or combinations of the following groups:  $-(CH_2)_n-$  and/or  $-[CH(CH_3)CH_2]-$ ;  $Y$  is selected from the following groups:  $=N^+-(A)_q$ ;  $-(CH_2)_n-N^+-(A)_q$ ;  $-B-(CH_2)_n-N^+-(A)_2$ ;  $-(phenyl)-N^+-(A)_q$ ;  $-(B-phenyl)-N^+-(A)_q$ ; with  $n$  being from about 1 to about 4, wherein each  $A$  is independently selected from the following groups:  $H$ ;  $C_{1-5}$  alkyl;  $R^1$ ;  $-(R^2O)_z-H$ ;  $-(CH_2)_xCH_3$ ; phenyl, and substituted aryl; where  $x$  is from 0 to about 3; and each  $B$  is selected from the following groups:  $-O-$ ;  $-NA-$ ;  $-NA_2$ ;  $-C(O)O-$ ; and  $-C(O)N(A)-$ ; wherein  $R^2$  is defined as hereinbefore;  $q = 1$  or  $2$ ;  $m + p + q = 4$ ; total  $z$  per molecule is from about 3 to about 50; and  $X^-$  is an anion which is compatible with fabric softener actives and adjunct ingredients; and

6. mixtures thereof;

E. optionally, from 0 to about 15% perfume; and

F. the balance water

wherein said electrolyte and said phase stabilizer, when present, provide at least one improvement selected from: lower dilution viscosity; the same, or better, stability with less principal solvent; and/or the use of principal solvents with a ClogP outside the range of from about 0.15 to about 0.64.

26. (Amended) The composition of Claim 1 wherein said phase stabilizer is nonionic surfactant derived from saturated and/or unsaturated primary, secondary, and/or branched, amine, amide, amine-oxide, fatty alcohol, fatty acid, alkyl phenol, and/or alkyl aryl carboxylic acid compounds, each having from about 6 to about 22 carbon atoms in an alkyl or alkylene chain, wherein at least one active hydrogen of said compound is ethoxylated with  $\leq 30$  ethylene oxide moieties to provide an HLB of from about 8 to about 20.

39. (Amended) The composition of Claim 1 wherein the phase stabilizer is derived from a C<sub>8</sub>-C<sub>18</sub> fatty [C<sub>8</sub>-C<sub>14</sub>] alcohol ethoxylated with from about 5 to about 15 [6 to about 10] moles of ethylene oxide.

Replacement paragraph for Page 28, lines 17 through 26:

Preferred phase stabilizers are nonionic surfactants derived from saturated and/or unsaturated primary, secondary, and/or branched, amine, amide, amine-oxide, fatty alcohol, fatty acid, alkyl phenol, and/or alkyl aryl carboxylic acid compounds, each preferably having from about 6 to about 22, more preferably from about 8 to about 18, carbon atoms in a hydrophobic chain, more preferably an alkyl or alkylene chain, wherein at least one active hydrogen of said compounds is ethoxylated with  $\leq 50$ , preferably  $\leq 30$ , more preferably from about 5 to about 15, and even more preferably from about 8 to about 12, ethylene oxide moieties to provide an HLB of from about 8 to about 20, preferably from about 10 to about 18, and more preferably from about 11 to about 15.